

AMENDED IN SENATE JUNE 26, 2009

CALIFORNIA LEGISLATURE—2009—10 REGULAR SESSION

**ASSEMBLY BILL**

**No. 1561**

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**Introduced by Committee on Labor and Employment (Monning  
(Chair), Eng, Furutani, Ma, and Portantino)**

March 11, 2009

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An act *to amend Section 6325 of, and to add Section 6333 to, the Labor Code, relating to employment.*

LEGISLATIVE COUNSEL'S DIGEST

AB 1561, as amended, Committee on Labor and Employment. Occupational safety and health: citation outcome analysis.

Existing law, the California Occupational Safety and Health Act of 1973, establishes enforcement procedures for the requirements related to safe and healthful working conditions for Californians. *The Division of Occupational Safety and Health of the Department of Industrial Relations is charged with enforcing occupational health and safety laws, orders, and standards, including the investigation of alleged violations of those provisions.*

*Existing law requires the division, when it decides that a place of employment, machine, device, apparatus, or equipment constitutes an imminent hazard to employees, to prohibit entry to the workplace or use of the machine, device, apparatus, or equipment.*

*This bill would specify that a place of employment may be deemed dangerous because a particular machine, device, apparatus, or piece of equipment, as well as a condition or practice in a place of employment, constitutes an imminent hazard to employees.*

Existing

*Existing law* requires the Director of ~~the Department of Industrial Relations~~ to prepare and submit to the Legislature, not later than March 1, an annual report on the activities of the ~~Division of Occupational Safety and Health of the department~~ *division*, including, among other components, the total inspections made and citations issued; the number of civil penalties assessed, total amount of fines collected, and the number of appeals heard; and information contained in a specified report prepared by the Bureau of Investigations of the division.

This bill would require the ~~Division of Occupational Safety and Health of the department~~ *division* to collaborate with the Occupational Safety and Health Appeals Board of the department to prepare an annual report analyzing the outcomes of citations and other notifications to employers appealed by those employers to the board by employers during the immediately prior calendar year. The division would be required to present the written report, not later than March 1 of each year, to the Speaker of the Assembly and the Chairperson of the Senate Committee on Rules for assignment to the appropriate committee or committees for evaluation.

Vote: majority. Appropriation: no. Fiscal committee: yes.  
State-mandated local program: no.

*The people of the State of California do enact as follows:*

1     SECTION 1. Section 6325 of the Labor Code is amended to  
2     read:  
3     6325. When, in the opinion of the division, a place of  
4     employment; *is dangerous to employees because of a condition*  
5     *or practice, or because a machine, device, apparatus, or piece of*  
6     equipment or any part thereof is in a dangerous condition, is not  
7     properly guarded, or is dangerously placed so ~~as to constitute that~~  
8     *the condition or practice of the workplace or the machine, device,*  
9     *apparatus, or equipment constitutes* an imminent hazard to  
10    employees, entry therein, or the use thereof, as the case may be,  
11    shall be prohibited by the division, and a conspicuous notice to  
12    that effect shall be attached thereto. ~~Such~~ *The* prohibition of use  
13    shall be limited to the immediate area in which the imminent hazard  
14    exists, and the division shall not prohibit any entry in or use of a  
15    place of employment, machine, device, apparatus, or *piece of*  
16    equipment, or any part thereof, which is outside ~~such~~ *the* area of  
17    imminent hazard. ~~Such~~ *The* notice shall not be removed except by

1 an authorized representative of the division, nor until the place of  
2 employment, machine, device, apparatus, or equipment is made  
3 safe and the required safeguards or safety appliances or devices  
4 are provided. This section shall not prevent the entry or use with  
5 the division's knowledge and permission for the sole purpose of  
6 eliminating the dangerous conditions.

7 ~~SECTION 1.~~

8 *SEC. 2.* Section 6333 is added to the Labor Code, to read:

9 6333. (a) The division shall collaborate with the appeals board  
10 to prepare an annual report that analyzes the outcomes of each  
11 citation, notification of failure to abate, special order, and order  
12 to take special action that satisfies all of the following:

13 (1) It was appealed to the appeals board by the employer to  
14 whom the notification of whichever type was issued.

15 (2) It had a docket number issued in the immediately prior  
16 calendar year.

17 (3) It was reviewed factually and legally in a prehearing  
18 conference or in an administrative hearing.

19 (4) Its outcome was memorialized in a written order of decision.

20 (b) The division shall present, not later than March 1 of each  
21 year, the written report analyzing the outcomes of the prior year  
22 to the Speaker of the Assembly and the Chairperson of the Senate  
23 Committee on Rules for assignment to the appropriate committee  
24 or committees for evaluation.

25 ~~SEC. 2.~~

26 *SEC. 3.* It is the intent of the Legislature that the report prepared  
27 each year pursuant to this act be similar to the winter 1999 report  
28 entitled "Outcomes Analysis of Pre-Hearing Conferences and  
29 Administrative Law Hearings Involving Cal/OSHA Citations"  
30 prepared by the Division of Occupational Safety and Health of the  
31 Department of Industrial Relations. However, the report prepared  
32 pursuant to this act is intended to include all the citations, orders,  
33 and other notifications that satisfy the criteria specified in the act,  
34 rather than just a sample of them, as were analyzed in the 1999  
35 report.